

E-Filed 10/13/09

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Attorney for Debtors

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

Michael J. Flynn
Susan J. Flynn

Debtors

) Case No.: 08-24979-LBR

) Chapter 13

) Hearing Date: October 28, 2009
) Haring Time: 10:00 a.m.

OPPOSITION TO MOTION FOR RELIEF FROM AUTOMATIC STAY

COMES NOW, Debtors, MICHAEL J. FLYNN and SUSAN J. FLYNN, by and through attorneys, DONALD P. NORRIS and the Law Firm of Macy & Aleman, and respectfully request that this Court deny the Motion for Relief From Automatic Stay filed by Creditor, WELLS FARGO BANK, N.A. ("Secured Creditor"), by and through its attorney GREGORY L. WILDE, Esq. This Opposition is made and based upon the attached memorandum of points and authorities, all papers and pleadings on file herein and any oral argument that this court may entertain at the hearing of this matter.

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POINTS AND AUTHORITIES

11 USC Section 362 (d)(1) states that the court may terminate, modify or condition stay “for cause, including the law of adequate protection of an interest in property of such party in interest;”

...

11 USC Section 362 (d)(2) the Court may terminate, modify or condition a stay “with respect to a stay of an act against property under subsections (a) of this sections, if –

(A) the debtors do not have an equity in such property AND

(B) such property is not necessary to an effective reorganization

STATEMENT OF FACT

Debtors are the owners of a residence located at 1290 Comet Street, Henderson, Nevada 89052 (the “Property”). The Property was valued at approximately \$205,000.00 at the time of filing of the Debtors’ recent Motion to Value Collateral, and has probably not appreciated since then. Debtors’ home is nevertheless necessary for an effective reorganization.

11 USC Section 362 (d)(1) may apply as:

1. Debtors acknowledge that they are delinquent with respect to their post-petition mortgage payments that they require time to pursue loan modification.

2. Debtors have been engaged in an effort to modify their mortgage since June, 2009, first with the loan servicer ASC, and subsequently with Secured Creditor as is evident from the attached copies of correspondence to both entities. Please see Exhibit “1” attached here to and herein incorporated by reference.

3. Debtors believe that the Secured Creditor should not have filed a Motion for Relief From Automatic Stay while engaging in consideration of a loan modification with Debtors and that ASC made no effort to inform Secured Creditor of a potential modification.

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CONCLUSION

Based upon the foregoing, Debtors respectfully request that the Motion for Relief be denied pursuant to 11 USC Section (d) (1) or (2), and that any such action on creditor's behalf be stayed for an adequate amount of time to allow Debtors to pursue their loan modification.

DATED this 13th day of October, 2006.

/s/ Donald P. Norris, Esq.
Donald P. Norris, Esq.
Attorney for Debtors

CERTIFICATE OF MAILING

I, the undersigned, an employee of MACY & ALEMAN, hereby certify that on this 13th day of October, 2009, I deposited in the United States Mail, first class mail, postage pre-paid, a true and correct copy of the **OPPOSITION TO MOTION FOR RELIEF FROM AUTOMATIC STAY** to all parties listed below:

Rick A. Yarnall
Chapter 13 Trustee
701 Bridger Avenue, #820
Las Vegas, NV 89101

Wilde & Associates, Esq.
Gregory L. Wilde, Esq.
208 South Jones Blvd.
Las Vegas, NV 89107

Michael J. Flynn
Susan J. Flynn
1290 Cornet Street
Henderson, NV 89052

EXHIBIT “1”

Donald P. Norris

From: SFlynn3023@aol.com
Sent: Thursday, October 08, 2009 3:19 PM
To: alm@legalhelpers.com; dpn@legalhelpers.com
Cc: SFlynn3023@aol.com
Subject: fax to bank

Just faxed the requested documents regarding the loan modification to Yolanda Stanton at Wells Fargo. This time it went through, the previous time I faxed it on Oct 1st it didn't go. Hopefully we will hear from them soon with good news. Just sending you this note to keep you informed as to how things are proceeding.
The Flynn

10/8/2009

Donald P. Norris

From: SFlynn3023@aol.com
Sent: Saturday, October 03, 2009 2:59 PM
To: Yolanda.M.Stanton@wellsfargo.com
Cc: SFlynn3023@aol.com; alm@legalhelpers.com; dpn@legalhelpers.com
Subject: Re: 106-1127114397

Dear Ms. Stanton,

Attached are the most recent pay stubs for Michael and I. Also attached is a letter written by Susan's present employer.

These attachments are also going to be faxed to 1-866-355-5154 as you requested.

Thank you in advance for any and all considerations given this matter.

Have a great week!

Regards,
Michael and Susan Flynn

Earnings Statement



U.S. Foodservice
 10410 South 50th Place
 Phoenix, AZ 85044-5213

Page 001 of 001
 Period Ending: 09/26/2009
 Advice Date: 10/01/2009
 Advice Number: 0005734343
 Batch Number: 200909291246

TAXABLE MARITAL STATUS:MARRIED
 Employee ID: 146169

EXEMPTIONS/ALLOWANCES
 FED EXEMPT 0

Michael J Flynn
 1290 Cornet St
 Henderson NV 89052

Earnings	Rate	Hours	This Period	Year-to-Date
Incentive	20.2000		6.39	603.27
Overtime	20.2000		0.45	3341.16
Regular	20.2000	40.00	808.00	27841.66
Overtime	30.3006	6.62	200.59	*****
Safety Bns				100.00
Vacation W				784.00
Sick Pay W				796.00
Holiday W				986.00
Light Duty				638.32
OBN				16.00

GROSS PAY	46.62	1015.43	35106.41
TAX DEDUCTIONS			
OASDI/EE		60.20	2074.63
MED/EE		14.08	485.20
FEDERAL WH		91.85	778.09

TOTAL TAX DEDUCTIONS	166.13	3337.92
DEDUCTIONS		
T014 BENS	44.45	1644.65
T014 STD	2.11	80.18

TOTAL DEDUCTIONS	46.56	1724.83
NET PAY	\$785.51	\$29509.39

Benefits Information	This Period	Year-to-Date
STD	0.54	21.06
SUP EE LIF	5.94	231.66
LTD 60%	6.16	240.24
SUPLIF&ADD	4.59	41.31

BENEFIT DEDUCTION	17.23	534.27
DIRECT DEPOSIT SUMMARY		
TRANS	TYPE	ACCOUNT
DIRECT	CHE	6987248629
		AMOUNT
		785.51

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TEAR HERE

VERIFY DOCUMENT AUTHENTICITY - COLORED AREA MUST CHANGE IN TONE GRADUALLY AND EVENLY FROM DARK AT TOP TO LIGHTER AT BOTTOM



U.S. Foodservice
 9755 Patuxent Woods Drive
 Columbia, MD 21046

Advice Number: 0005734343
 Advice Date: 10/01/2009

Deposited to the account of	Account Number	Amount
Michael J Flynn	DIRECT CHE XXXXXX8629	785.51

THIS IS NOT A CHECK
NON-NEGOTIABLE

NEW SONG LUTHERAN CHURCH

1291 CORNET ST.
HENDERSON, NV 89052
(702) 492-1771

WELLS FARGO BANK, N.A.
HENDERSON, NV 89052
94-7074-3212

PAY TO THE
ORDER OF

Susan Flynn

09/30/2009

744.83

DOLLARS

Seven hundred forty four and 83/100*****

Susan Flynn
1290 Cornet Street
Henderson NV 89052

MEMO

AUTHORIZED SIGNATURE

0177700 0177700

NEW SONG LUTHERAN CHURCH

Susan Flynn
09/30/2009

PARISH ASST
FEDERAL W/H
EMPLOYEE FICA
EMPLOYEE M/C
CHECK AMOUNT

Pay Period:
09/14/2009 to
09/27/2009

REGULAR
72.00

OVER OTHER UNPAID

AMOUNT	YR TO DATE
864.00	864.00
53.07	53.07
53.57	53.57
12.53	12.53
744.83	744.83

4411



NEW SONG CHURCH

The Rev. David Poling-Goldenne • The Rev. Dr. Marta Poling-Goldenne
pastordave@newsonganthem.org pastormarta@newsonganthem.org

1291 Cornet Street, Henderson, NV 89052-5530

Phone: (702) 492-1771 • (702) 294-1671 • Fax (702) 294-1571
www.newsonganthem.org

October 1, 2009

To Whom It May Concern:

Susan Flynn began working for New Song Lutheran Church on September 10, 2009, as our front office *Parish Assistant*. In that capacity, she functions as the office manager responsible for the coordination of print and phone correspondence with member households, production of weekly print communications, organization of all front desk and phone reception functions, procurement of all parish supplies, and manager of multiple projects necessary for the successful running of the organization. She is currently working Mondays-Fridays, from 9AM-3PM, at the rate of \$12.00 per hour. We anticipate that both her pay and her hours will increase to full time at the beginning of 2010, because of the increasing office demands emerging in this fast-growing congregation. It is likely that Susan's position will formally transition to *Parish Administrator* in the near future, requiring additional responsibilities including the supervision of other office staff. As her position with the church grows in the next few months and years her compensation will grow accordingly. In the short time she has worked for the congregation, Susan has already proved indispensable! Her background in airline management, customer relations and construction contract negotiations has prepared her well for dealing with the diverse personalities of a growing congregation.

Susan's personality is ideal for the special needs of this position in the life of our church. Her caring and people-intuitive personality has been a much-needed asset to our staff! For the past few years, we have *really* struggled to find "the right person" for this position; one with both the office management competencies and the right personality to fulfill this role. It is a "make or break" position for a congregation. It is absolutely critical that the person who works in this job has great people skills, is hospitable, caring and also very discerning. We have found that person in Susan. And we desperately want to keep her working at New Song Lutheran Church.

We are very hopeful that she and her husband will be able to remain in the neighborhood for the sake of the mission of our congregation. They have both been integral to the life of this faith community through their extensive involvement in *Habitat for Humanity*, *National Make-A-Difference Day*, the *City of Henderson's Project Green* efforts, and many outreach events into the neighborhood, like our Easter Egg Hunt.

We are aware of the Flynn's desire and efforts to stay in their home as its owners. Through this letter, we are hopeful that you will consider the wider impact which your decision could make on an active Henderson area congregation. Our parishioners, like other local residents, have been deeply impacted by the current economic recession and the dramatic changes in the local housing market. We need Susan Flynn and the unique skills she brings on the staff of New Song Lutheran Church. *We ask that you consider her important role and influence in our faith community as you make choices regarding her home ownership.*

Please let us know if we can provide any further character support concerning Susan and Mike Flynn in the efforts to modify their home loan. We need them to stay here!

Sincerely,



The Rev. Dr. Marta Poling-Goldenne
Pastor

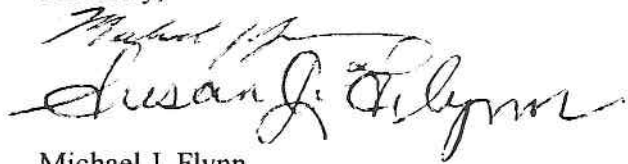


The Rev. David Poling-Goldenne
Pastor

Please help us, we have moved 9 years ago from New Hampshire to New York. We got behind in our bills due to Michael getting injured on the job, and his income was less, Susan was out of work for 2 months, and we needed to purchase a newer vehicle for Michael, his older vehicle kept breaking down and needed major work done on it. We needed to use our credit cards to pay the mortgage, and car for repairs. During this time we tried working with the banks to lower our monthly payments on the credit cards, and tried to refinance our home but none of them wanted to help. We both had excellent credit when we bought this home and our past two homes. It is most unfortunate that we have gotten to this point, and we do not want to lose another home. As with most people, our past two years have been very challenging to say the least. Both of us are God fearing, honest, hard working, individuals that fell on hard times, we are not trying to get out of paying our debts, we just need help in finding a solution, and a loan modification would benefit both America's Servicing Company and us.

Thank you in advance for any considerations given this request.

Sincerely,



Michael J. Flynn
&
Susan J. Flynn

1290 Cornet Street
Henderson, NV 89052
(702) 407-6767

June 22, 2009

America's Servicing Company
3476 St. View Blvd.
Fort Mill, SC 29715
Attention: Bankruptcy Department

Re: Request for a Loan Modification on account #1127114397

To Whom It May Concern:

This letter will explain the need for a loan modification. We had to file Chapter 13 bankruptcy so that we could keep our home. Since May 15, 2009, Susan was laid off from her place of employment, and our income is much lower. Attached you will find a letter from our attorney allowing the loan modification department to contact us, proof of income (including unemployment insurance, which is actually \$376.20 per week after taxes), and a copy of our monthly expenses. We want to keep our home, and are willing to work very closely with you to rectify this situation. Last month we could only afford to pay half of our current mortgage, due to getting one of our vehicle's fixed and registered, so that Susan is available to go on interviews and obtain gainful employment. At the moment the vehicle is in the shop, and we are waiting for an estimate on the cost. We also need to pay our association fees that are due July 1, 2009 in the amount of \$197.00. Also, we have had to have our home re-plumbed (due to the wrong fittings used by the builder, this is being paid by the builder) and just this morning the plumber told us that we need to pay them an additional \$400.00 because of a water pressure problem which is not included what they are contracted to do. We worked out an agreement with the plumbing company, and we can pay them \$20.00 a month until it is paid. These three additional bills for the month of July have really put a toll on us.

One other note, we now owe the IRS over \$3,000.00, because we had changed our deductions so that we could pay our bills and this put us into a higher tax bracket. This will be included into our Chapter 13.

We do not want to get any further behind on our mortgage payments and are doing everything we can to keep our home. Our original purchase amount was \$435,000.00, our down payment of \$35,000.00 is completely gone. The current total due to ASC is \$372,000.00. We had an appraisal done back in March 2009 and now the home is only worth \$205,000.00. Our loan with ASC was written as interest only, for 6.50% with a variable rate that is due to change soon.



MACEY & ALEMAN
and MACEY & ALEMAN PC and MACEY & ALEMAN LLP
AMERICA'S CONSUMER LAW FIRM

June 17, 2009

America's Servicing Company
Attention: Bankruptcy Dept.
3476 St. View Blvd.
Fort Mill, S.C. 29715

Re: Michael and Susan Flynn
1290 Comet St.
Henderson, NV 89052

Loan Account: 1127114397 *STF*
1127114397

To Whom It May Concern:

This letter will serve as my permission for your loan modification department to contact Mr. and Mrs. Flynn regarding loan modification for the mortgage of the Account Number listed above. Mr. and Mrs. Flynn are clients of this firm and are presently in Chapter 13 Bankruptcy.

Thank you in advance for your cooperation.

Sincerely:

Donald P. Norris

Donald P. Norris, Esq.
for the Law Firm of Macey & Aleman/Legalhelpers

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